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Approved For Release 2005/05/23 : CIA-RDP82M00591R000100100051-5

Chron

DIRECTOR OF CENTRAL INTELLIGENCE
Security Committee

SECOM-D-257
13 July 1977

MEMORANDUM FOR: Acting Deputy to the DCI for the Intelligence Community

FROM :
Executive Secretary

SUBJECT : NOCONTRACT Caveat

1. This is in response to your request at yesterday's Chairmen's meeting for information regarding any problem caused by NOCONTRACT caveat.

2. I checked with DIA to see if they were aware of any problems. indicated that they were experiencing a major problem caused by long delays in obtaining release authority from the originator, mostly CIA and NSA material.

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When Released This Attachment

25X1 6. ☐ Attached for your information is a copy of DCID 1/7 and
25X1 a USIB memorandum referring the DCID to SECOM for review.

7. ☐ I will keep you informed of progress in this regard.
Please let me know if you need any other information.

Attachments:

1. DCID 1/7
2. USIB-D-5.1/26

Distribution:

- Orig. - Addressee w/atts.
1 - D/OPP w/atts.
1 - SECOM Subj. File w/atts.
1 - SECOM Chrono w/atts.

25X1 DCI/ICS/SECOM ☐ 13 July 77

DIRECTOR OF CENTRAL INTELLIGENCE DIRECTIVE NO. 1/7¹
CONTROL OF DISSEMINATION OF FOREIGN INTELLIGENCE

(Effective 18 May 1976)

Pursuant to Section 102 of the National Security Act of 1947, Executive Order 11905 and National Security Council Intelligence Directives, certain controls on dissemination of foreign intelligence and related material² (hereafter referred to as foreign intelligence) are hereby established and promulgated.

1. Purpose

This directive establishes certain common controls and procedures for the use and dissemination of foreign intelligence to ensure that, while facilitating the interchange of information for intelligence purposes, there will be adequate protection of foreign intelligence sources and methods. This directive restates applicable portions of National Security Council Directive of 17 May 1972 implementing Executive Order 11652, and prescribes additional controls applicable to the US foreign intelligence mission. The policy on release of foreign intelligence to contractors is set forth in the Attachment.

2. Applicability

The controls and procedures set forth in this directive shall be uniformly applied within the Executive Branch of the Government in handling of all materials containing foreign intelligence originated by Intelligence Community organizations as defined by Section 2(b) of Executive Order 11905.

3. National Security Council Directive

a. National Security Council Directive of 17 May 1972 implementing Executive Order 11652 stipulates that, except as otherwise provided by Section 102 of the National Security Act of 1947, classified information or material originating in one department shall not be disseminated outside any other department to which it has been made available without the consent of the originating department. This restriction on dissemination is commonly described as the "third agency rule."

b. The NSC Directive stipulates that the dissemination of classified information, including intelligence and intelligence information, orally,

¹ This directive supersedes DCID No. 1/7 effective 5 October 1975.

² For purposes of this directive, "related material" includes: information describing US foreign intelligence sources and methods, equipment and methodology unique to the acquisition or exploitation of foreign intelligence, foreign military hardware obtained for exploitation and photography or recordings resulting from US foreign intelligence collection efforts.

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in writing or by any other means, shall be limited to those persons whose official duties or contractual obligations require knowledge or possession thereof. This is commonly referred to as the "need-to-know" principle.

c. The NSC Directive also states that documents or portions of documents containing TOP SECRET information shall not be reproduced without the consent of the originating office. All other classified material shall be reproduced sparingly and any stated prohibition against reproduction shall be strictly adhered to.

d. The NSC Directive further requires that the marking, "WARNING NOTICE-SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED," be prominently displayed on all information and materials relating to sensitive intelligence sources and methods; and, that materials so marked will not be disseminated in any manner outside authorized channels without the permission of the originating department and an assessment by the senior intelligence official in the disseminating department as to the potential risk to the national security and to the intelligence sources and methods involved.³ For special purposes, primarily bibliographic notation, communications or automatic data processing, this marking may be abbreviated WNINTEL.

4. *Advance authorization.*

a. To facilitate the dissemination and different uses made of classified foreign intelligence within and among Intelligence Community organizations and to assure the timely provision of intelligence to consumers and to handle the volume of such materials in a practical way, it is necessary to provide controlled relief to the "third agency rule" within the Intelligence Community in addition to that provided by Section 102 of the National Security Act of 1947. Accordingly, Intelligence Community organizations have been given advance authorization to use each other's classified foreign intelligence in their respective intelligence documents, publications or other information media, and to disseminate their products to third agencies or foreign governments,⁴ subject to limitations and procedures prescribed in this directive.

b. Classified foreign intelligence documents, even though they bear no control markings, will not be released in their original form to third agencies or foreign governments without permission of the originator. Information contained in classified foreign intelligence documents of another organization may be extracted or paraphrased and used by the recipient Intelligence Community organization in classified foreign intelligence reports and released to third agencies, except as specifically restricted by control

³ Unless otherwise specified by the Director of Central Intelligence in consultation with the National Foreign Intelligence Board or as agreed to between originating and recipient agencies, authorized channels include Intelligence Community organizations and within each organization (including their contractors and consultants) as determined by the recipient senior intelligence official.

⁴ Excepting RESTRICTED DATA and formerly RESTRICTED DATA, which is prohibited from foreign dissemination under Sections 123 and 144 of Public Law 585, Atomic Energy Act of 1954, as amended.

markings prescribed in this directive. For purposes of this authorization, "WARNING NOTICE-SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED" shall not be considered a restrictive marking.

c. Information contained in classified foreign intelligence documents of another organization not bearing any control markings may be extracted or paraphrased and used by the recipient Intelligence Community organization in reports disseminated to foreign governments provided:⁵

(1) No reference is made to the source documents upon which the released product is based.

(2) The source and manner of acquisition of the information are not revealed.

(3) Foreign release is made through established foreign disclosure channels and procedures.

d. Any organization disseminating foreign intelligence beyond the organizations of the Intelligence Community shall be responsible for ensuring that recipient organizations understand and agree to observe the restrictions prescribed by this directive and maintain adequate safeguards.

e. No release of a classified foreign intelligence document, whether or not bearing a control marking, shall be made to foreign nationals and immigrant aliens, including US Government employed, utilized or integrated foreign nationals and immigrant aliens, without the permission of the originating agency.

5. *Additional authorized control markings*

a. In addition to the WARNING NOTICE prescribed by NSC Directive, any of the following additional markings may be used on foreign intelligence whenever, in the opinion of the originating organization, extraordinary circumstances related to the intelligence source or method require more specific dissemination restrictions. Use of these markings shall be limited to foreign intelligence, the disclosure of which, could: compromise the status of collaborating foreign governments or officials or otherwise seriously damage US relations with foreign governments; subject US citizens or others to the possibility of personal danger or incarceration; seriously impair the continuing cooperation of private individuals providing foreign intelligence; seriously affect the continuing viability of vital technical collection programs; or, result in the possible compromise or loss of some unique foreign intelligence source or method. These control markings will be individually assigned at the time of preparation of the completed document and used in conjunction with classification and other markings required by Executive Order 11652 and the implementing NSC Directive and, unless otherwise indicated in 6a below, carried forward to any new format in which that information is incorporated, including oral and visual presentations.

⁵ See footnote 4, paragraph 4a.

(1) "DISSEMINATION AND EXTRACTION OF INFORMATION CONTROLLED BY ORIGINATOR"

This marking shall be used when unique source sensitivity factors, known to the originator, require strict compliance with third agency rule procedures, in addition to a continuing knowledge and supervision on the part of the originator as to the extent to which the original document and information contained therein is disseminated. Documents and information bearing this marking will not be disseminated beyond the Headquarters elements of the recipient organizations and the information contained therein shall not be extracted and incorporated into other reports without the permission of and under conditions prescribed by the originator. (For special purposes, primarily bibliographic notation, communications and automatic data processing, this marking may be abbreviated ORCON.)

(2) "NFIB DEPARTMENTS ONLY"

Foreign intelligence so marked will not be disseminated to organizations not represented on the National Foreign Intelligence Board without the permission of the originating agency. Within each National Foreign Intelligence Board organization dissemination shall be as determined by the recipient senior intelligence official, and may include organization contractors and consultants unless specifically prohibited by addition of the "NOT RELEASABLE TO CONTRACTORS OR CONTRACTOR/CONSULTANTS" marking described below. (For special purposes, primarily bibliographic notation, communications and automatic data processing, this marking may be abbreviated NFIBONLY.)

(3) "NOT RELEASABLE TO CONTRACTORS OR CONTRACTOR/CONSULTANTS"

Foreign intelligence so marked shall not be disseminated to contractors or contractor consultants without the permission of the originating agency. Examples of when this marking may be used include National Intelligence Estimates and similar national intelligence reports and other foreign intelligence, which, if disseminated to consultants or contractors, might seriously impair the continuing cooperation of contributing private individuals. This restriction shall not apply to those consultants hired under Civil Service Commission procedures, or comparable procedures derived from authorities vested in heads of organizations by law, and who are normally considered an extension of the office by which they are employed. In applying this control marking, originators will give consideration to the need of Intelligence Community organizations to use contractor consultants and contractors to perform services which cannot be adequately performed by US Government personnel. (For special purposes, primarily bibliographic notation, communications and automatic data processing, this marking may be abbreviated NOCONTRACT.)

(4) "CAUTION—PROPRIETARY INFORMATION INVOLVED"

This marking will be used in conjunction with foreign intelligence obtained from various sources in the US private business sector, and as the information may bear upon proprietary interests of the source, or may

otherwise be used to the source's detriment. Recipients of reports bearing this marking shall take every reasonable precaution to ensure that the information is not used to the detriment of the source. This marking may be used in conjunction with the "NOT RELEASABLE TO CONTRACTORS OR CONTRACTOR/CONSULTANTS" marking described above. (For special purposes, primarily bibliographic notation, communications and automatic data processing, this marking may be abbreviated PROPIN.)

(5) "NOT RELEASABLE TO FOREIGN NATIONALS"

Foreign intelligence so marked involves special considerations requiring that it not be released in any form to foreign governments, foreign nationals or non-US citizens without the permission of the originating agency. Examples of when this control marking may be used include: the possible compromise of the status of relations with collaborating foreign governments, or officials; or jeopardizing the continuing viability of vital technical collection programs. (For special purposes, primarily bibliographic notation, communications and automatic data processing, this marking may be abbreviated NOFORN.) When the originating agency predetermines that information can be released to a specified foreign government(s), the following marking may be used: "THIS INFORMATION HAS BEEN AUTHORIZED FOR RELEASE TO (specified country(s))." (For special purposes, primarily bibliographic notation, communications and automatic data processing, this marking may be abbreviated "REL (specified country(s)).")

6. *Procedures governing use of control markings*

a. Any recipient desiring to use foreign intelligence in a manner contrary to the restrictions established by the control markings set forth above shall obtain the permission of the originating agency. Such permission applies only to the specific purpose agreed to by the originator and does not automatically apply to all recipients of the information as originally disseminated unless the originating agency removes the control markings for the benefit of the recipients. In those cases where dissemination outside the recipient agency is desired utilizing lesser or no control markings, the recipient agency should prepare a sanitized version which may be released with the originator's permission.

b. Control markings authorized in paragraphs 3d and 5 above, shall be displayed prominently on documents, incorporated in the text of communication messages, and associated with data stored or processed in automatic data processing systems. Unless the entire document justifies the protection of the control marking(s), each portion requiring the marking(s) shall, to the extent feasible, be marked with the appropriate marking abbreviation authorized by this directive.

c. The standardized restrictions and control markings set forth in this directive are to be employed uniformly by all organizations in the Intelligence Community, thereby assuring like control and restrictions on the use of foreign intelligence disseminated within the organizations represented on the National Foreign Intelligence Board.

The Directive shall be published in appropriate regulatory or notice media of each organization, together with appropriate procedures permitting rapid interagency consultation concerning utilization of intelligence and information. For this purpose, each Intelligence Community organization will designate a primary referent.

7. Report of unauthorized disclosure

Violations of the foregoing restrictions and control markings that result in unauthorized disclosure by one agency of the foreign intelligence of another shall be reported to the Director of Central Intelligence through the DCI Security Committee.

8. Prior restrictions and markings

Questions with respect to the current application of control markings authorized by earlier directives on the dissemination and control of intelligence and utilized on documents issued prior to the date of this directive should be referred to the originating agency. These markings are: WARNING NOTICE-SENSITIVE SOURCES AND METHODS INVOLVED, CONTROLLED DISSEM, NSC PARTICIPATING AGENCIES ONLY, INTEL COMPONENTS ONLY, LIMITED, CONTINUED CONTROL, NO DISSEM ABROAD, BACKGROUND USE ONLY and NO FOREIGN DISSEM.

George Bush
Director of Central Intelligence

DIRECTOR OF CENTRAL INTELLIGENCE DIRECTIVE NO. 1/7

(Attachment)

DCI POLICY ON RELEASE OF
FOREIGN INTELLIGENCE TO CONTRACTORS¹

1. In order that the Intelligence Community agencies may more effectively discharge their responsibilities and without intent to limit such broader authority or responsibility as any may now have under law, NSC Directive or special agreements among them, selected intelligence² may be made available by recipient officials of the Intelligence Community agencies or their designated subordinates to certain contractors without referral to the originating agency, provided that:

a. Release³ shall be limited to private individuals (including consultants) or organizations certified by the Senior Intelligence Office of the sponsoring Intelligence Community agency as being under contract to the United States Government for the purpose of performing classified services

¹ "General policy is set forth in DCID No. 1/7, 'Control of Dissemination of Foreign Intelligence,' effective 18 May 1976. In accordance with paragraph 5a(3) of DCID 1/7, the Intelligence Community agencies agree that government-owned, contractor-operated laboratories performing classified services in support of the intelligence mission of the Energy Research and Development Administration, which are designated authorized channels by the ERDA Senior Intelligence Officer, are not considered contractors for the purposes of this policy statement."

² This directive deals solely with foreign intelligence, which for purposes of this directive, is defined as information reports and intelligence produced and disseminated by CIA, INR/State, DIA, NSA, ACSI/Army, Naval Intelligence Command, ACSI/Air Force, ERDA and the military commands. This specifically excludes Foreign Service reporting and Sensitive Compartmented Information* (SCI). Permission to release Foreign Service reporting must be obtained from the Department of State, and permission to release SCI must be obtained from its originator. SCI is covered specifically by paragraph 3 of this directive, in that it bears one or more codewords or special instructions which dictate handling in special dissemination channels.

*The term "Sensitive Compartmented Information" as used in this directive is intended to include all information and materials bearing special community controls indicating restricted handling within present and future community intelligence collection programs and their end products for which community systems of compartmentation have been or will be formally established. The term does not include RESTRICTED DATA as defined in Section II, Public Law 585, Atomic Energy Act of 1954, as amended.

³ Release is the visual, oral or physical disclosure of classified intelligence material.

as having a need-to-know, and as possessing the required security clearances.

b. The responsibility for ensuring that releases to contractors are made pursuant to this policy statement shall rest with the Senior Intelligence Officer of the sponsoring member agency (i.e., the chief of the intelligence component seeking release on his own behalf or on behalf of a component within his department or service) or his designee.⁵

c. The agency releasing the intelligence material shall maintain a record of the material released and shall upon request report such releases to the originating agency.

d. Intelligence material released to a contractor does not become the property of the contractor and can be withdrawn from him at any time. Upon completion of the contract, the releasing agency shall assure that all intelligence materials released under authority of this agreement and all other materials of any kind incorporating data from such intelligence materials are returned to the releasing agency for final disposition.

e. Contractors receiving intelligence material will not release the material (1) to any activity or individual of the contractor's organization not directly engaged in providing services under the contract, nor (2) to another contractor (including a subcontractor), government agency, private individual or organization without the consent of the releasing agency (which shall verify that the second contractor has a need-to-know and meets security requirements).

f. Contractors will ensure that intelligence material will not be released to foreign nationals whether or not they are also consultants, US contractors or employees of contractors, and regardless of the level of their security clearance, except with the specific permission of the originating agency.

g. Contractors shall be required to maintain such records as will permit them to furnish, on demand, the names of individuals who have had access to intelligence materials in their custody.

h. Contractors may not reproduce any material released without the express permission of the agency having contractual responsibilities. All requirements for control and accountability for original documents as indicated above shall apply equally to copies made.

2. The following intelligence materials *shall not* be released to contractors:

National Intelligence Estimates (NIEs), Special National Intelligence Estimates (SNIEs), National Intelligence Analytical Memoranda and Inter-agency Intelligence Memoranda are not releasable and hence shall bear the

⁴ Non-Intelligence Community government components under contract to fulfill an intelligence support role, may be treated as members of the Intelligence Community rather than as contractors. When so treated, it shall be solely for the specific purposes agreed upon, and shall in no case include authority to disseminate further intelligence material made available to them.

⁵ Releasing agencies are required to delete: a) the CIA seal, b) the phrase "Directorate of Operations," c) the place acquired, d) the field number, and e) the source description from all CIA Directorate of Operations reports passed to contractors, unless prior approval to release such information is obtained from CIA.

SULTANTS stamp. However, information contained therein may be made available, without identification as national intelligence, over the byline of the Senior Intelligence Officer of the Intelligence Community agency authorizing its release.

3. The following intelligence materials *shall not* be released to contractors unless special permission has been obtained from the originator:

Materials which by reason of sensitivity of content bear special markings, such as NOT RELEASABLE TO CONTRACTORS OR CONTRACTOR/CONSULTANTS or CAUTION—PROPRIETARY INFORMATION INVOLVED contained in DCID 1/7 (effective 18 May 1976) or which are marked for handling in special dissemination channels.

4. Questions concerning the implementation of this policy and these procedures shall be referred for appropriate action to the Security Committee.

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Memorandum for Holders-1
USIB-D-5. 1/26
6 November 1974

UNITED STATES INTELLIGENCE BOARD

MEMORANDUM FOR HOLDERS OF USIB-D-5. 1/26

SUBJECT : Revision of DCID No. 1/7, "Control of
Dissemination of Intelligence"

REFERENCE : USIB-D-5. 1/26, 10 October 1974

1. All USIB members have submitted their concurrence or comments on the proposed revision of DCID No. 1/7, which was circulated for Board consideration by the reference.
2. The NSA, Treasury and FBI members have concurred.
3. The Acting CIA member has withheld his concurrence pending a review by the Security Committee of whether NOFORN markings should be placed on appropriate USIB and IRAC documents, review of paragraph 6. a., and change of WINTEL to WNINTEL [paragraph 4. a. (1)].
4. The Acting State member concurred, but stated that certain aspects of the proposed directive present problems for State and, therefore, requested a review of the directive in an appropriate forum.
5. The Acting DIA member, while not identifying any specific problem, recommended that the subject DCID be remanded to the Security Committee for staffing and recommendation to USIB.
6. The AEC representative to USIB expressed his concern with the DCID 1/7 revising the CONTROLLED DISSEM intelligence caveat to "NOT RELEASABLE TO CONSULTANTS OR CONTRACTORS." His concern is that such a caveat will perhaps be interpreted in a very narrow sense and thus be counterproductive to the use of the national nuclear laboratories in their intelligence support role to the AEC

Exempt from general declassification
schedule of E. O. 11652, exemption
category 5B(2). Automatically declassified
on: date impossible to determine.

*only AEC
problem*

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Memorandum for Holders-1
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and other USIB agencies. General Giller noted that the Department of Justice ruled that the special and unique relationship of AEC full-time weapons laboratory personnel enabled the Commission to treat them as if they were full-time Federal employees.

7. Because of the above concerns expressed by the USIB members, the Director of Central Intelligence has referred DCID No. 1/7 to the Security Committee for review and recommendation to the Board.



Executive Secretary

cc: Chairman, Security Committee

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